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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/719,319	12/11/2000	Peter Himmelsbach	BEIERSDORF67	7230

7590 06/18/2003

Norris McLaughlin & Marcus
220 East 42nd Street 30th floor
New York, NY 10017

EXAMINER

SALVATORE, LYNDIA

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 06/18/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/719,319

Applicant(s)

Examiner

Lynda M Salvatore

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A-213

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Amendment

1. Applicant's amendment and accompanying remarks, Paper No. 12, have been entered. Claims 1,4,7,8,10,12,15 and 18-21 have been amended and new claim 23 has been added as requested. Applicant's substitute abstract is sufficient to overcome the objection to the specification as set forth in section 2 of the last Office Action. Applicant's amendment to claims 1,7,8,10 and 12 are found sufficient to overcome the claim objections set forth in section 3 of the last Office Action. As such, said objections of said claims are hereby withdrawn. Applicant's amendment to claims 1,2,4,7,8,10,12,15,16,20, and 21 are found sufficient to overcome the 35 U.S.C. 112, second paragraph rejections as set forth in sections 6,7,9,11-18 of the last Office Action. As such, said rejections of said claims are hereby withdrawn. Despite this advance, the amendments are not found to patently distinguish the claims over the prior art and Applicant's arguments are not found persuasive of patentability for reasons set forth herein below.

Claim Rejections - 35 USC § 112

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 3, 5, and 22 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. With regard to claim 3, the Applicant argues that one of ordinary skill in the art would recognize that "closed surface" means that the deformation of the domes or polygeometric forms forces them together such that the openings between said domes or polygeometric forms closes.

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The Applicant further argues that the connection of domes to one another by means of lines would be construed by those of ordinary skill to mean that the deformation is sufficient to cause the domes to contact each other, and such a connection between two adjacent domes or polygeometric forms forms a line. This is not found persuasive on the grounds that it is the opinion of the Examiner that the claim language recited by the Applicant does not clearly communicate said definitions of "closed surface" and "connection lines" and that one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Furthermore, Applicant's recitation of "closed surface" and "connection lines" may have several other reasonable interpretations other than that what is intended. Therefore, it is suggested that the Applicant positively recite what is meant by "closed surface" and "connection lines" rather than asserting that one of ordinary skill in the art would be able to clearly interpret the scope of the claim as defined in detail in Applicants response. Thus claim 3 stands rejected.

5. With regard to claim 5, the Applicant argues that those skilled in the art are very familiar with the "nozzle process". This argument is not found persuasive on the grounds that the "nozzle process" could encompass a wide variety of processes employing a nozzle including varieties which cannot be expected to perform as Applicant intends. Does the Applicant mean applying the adhesive composition by a spraying method? If so, it is suggested to positively recite this limitation. Thus, claim 5 stands rejected.

6. With regard to claim 22, it appears as if the Applicant has overlooked the rejection pertaining to claim 22 as set forth in section 19 of the last Office Action. To reiterate, claim 22 is indefinite because it is unclear to the Examiner what is meant by "technically" permanent bonds and how such "permanent" bonds can be separated with only partial splitting of the

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substrate. In other words, if the bond can be separated then how can it be "technically permanent"? Furthermore, claim 22 also recites the limitation of "substrate" in line 2. There is insufficient antecedent basis for this limitation in the claim. Thus, claim 22 stands rejected.

Claim Rejections - 35 USC § 102

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 1-22 stand rejected under 35 U.S.C. 102(a) as being anticipated by Himmelsbach et al., EP 0 826 380 A2. Additionally, newly added claim 23 is also rejected under 35 U.S.C. 102(a) as being anticipated by Himmelsbach et al., EP 0 826 380 A2.

Applicant argues that the Examiner is relying on sheer speculation to assert that calendaring would inherently deform any pre-determined shape and that Himmelsbach et al., does not teach or suggest anything at all about deformation of the polygeometric domes. These arguments are not found to be persuasive. With regard to the calendaring issue, the Applicant is invited to consult a textile dictionary where calendaring is generally defined as a mechanical finishing process used to produce special effects such as high luster, glazing, moire' and embossed effects. In operation, the fabric substrate is passed through heated rolls under pressure. Thus, the argument is not speculative and it is the position of the Examiner that passing the coated substrate through heated rollers under pressure would inherently deform any pre-determined shape. With regard to Applicant's argument that Himmelsbach et al., does not teach or suggest anything at all about deformation of the polygeometric domes, the Examiner asserts that Himmelsbach et al., teaches applying the pressure sensitive adhesive in the form of polygeometric domes and further subjecting said coated substrate to calendaring. As a result of

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such calendaring treatment the polygeometric domes would be subject to permanent deformation.

With regard to newly added claim 23, Himmelsbach et al., teaches sterilizing the treated backing material with γ (gamma) radiations (Page 11, 1-5).

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 703-305-4070. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Is 

June 16, 2003



TERREL MORRIS
SUPERVISORY PATENT EXAMINER
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